



U.S. SECURITIES AND EXCHANGE COMMISSION

FREEDOM OF INFORMATION ACT PROGRAM ACTION PLAN

Pursuant to
**Executive Order 13392 “Improving Agency
Disclosure of Information”**

**As submitted to:
Department of Justice and
Office of Management and Budget**

June 14, 2006

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ACTION PLAN**

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A. Characterize overall nature of agency’s FOIA operations.

The Securities and Exchange Commission (SEC) Freedom of Information Act (FOIA) program provides centralized FOIA processing and customer service center access from Commission Headquarters in Washington, DC. The SEC FOIA/Privacy Act Operations Branch is located within the Office of Filings and Information Services in the Executive Director’s Office. The Chief FOIA Officer and FOIA/PA Officer is the manager of the FOIA/PA Operations Branch. The Branch receives and responds to all FOIA requests and requests for confidential treatment; provides FOIA policy, procedure, and training to all Commission staff; receives and responds to referrals and questions from Members of Congress, other Federal agencies and state and local governments; maintains an electronic FOIA document management system for the Commission; and implements guidance issued by the Department of Justice and the Office of Management and Budget.

The Commission generally receives requests, based on interest of investors or other parties, for regulated company or entity reporting and registration review activities; consumer complaints; or investigations. The number of FOIA requests to the SEC has grown over the past five fiscal years from 2500 requests in FY 02 to 9500 requests for FY 05. A rapid 220% increase occurred from FY 03 to FY 05, creating a sizable backlog of requests. The Commission recognized the mounting demand for information and began initiating measures to improve access to information in 2003. A number of initiatives have already been accomplished and FOIA program improvements have been realized and continue to progress.

B. List all areas selected for review.

All 27 areas identified for review under EO 13392 by the Department of Justice Implementation Guidance were considered. Those areas selected for in-depth review were:

Proactive disclosure of information; Automated tracking capability; Electronic FOIA – automated processing; Multi-track processing; Case-by-case problem identification; Backlog reduction/elimination; and In-House Training

C. Narrative statement summarizing results of review.

The backlog of FOIA requests, which began in FY 2003, is primarily for correspondence relating to disclosure filing reviews referred to as SEC comment letters and company response letters. The increase in FOIA requests for these records clearly indicates public awareness and interest in the information. There are two commercial entities filing thousands of requests per year to obtain access to these letters for sale to the public, thereby creating the overwhelming backlog. In response to public interest for SEC comment letters, the Commission announced that it would release the correspondence related to disclosure filings reviewed after August 1, 2004, as stated in a press release dated June 24, 2004 (SEC Press Release 2004-89). The SEC began posting correspondence to its public EDGAR website in May 2005. Over time, as additional postings of comment and response letters take place, the need to file a FOIA request for this correspondence will diminish. The posting of correspondence has already had an impact on reducing the backlog of FY 05 and 06 requests, as many requests have been satisfied by posted materials. Additionally, Notices of Effectiveness of Securities Act registration statements are being posted to public EDGAR, placing more information into the public domain.

To eliminate the backlog of FY 03 and 04 requests, the FOIA Staff has undertaken a case-by-case review of each request to determine the most feasible method to respond to requests for dated information. The FY 03 review was recently completed in May 2006 and resulted in closure of over 200 requests, significantly reducing the backlog. The review of FY 04 requests is on-going. Included in these FY 03 and 04 reviews is the status of requests placed into the Commissions multi-track queues. The FIFO track (first-in, first-out) includes requests requiring focused and extensive staff time in order to review large volumes of records. Requestors sign an agreement to be placed into the FIFO track and are notified periodically of their status in the queue. The SEC FOIA Office receives a very minor number of requests for expedited treatment.

In November, 2004, the SEC FOIA Office implemented an internal FOIA electronic document management and tracking system. This system is currently being considered for enhancement to include a public module allowing users web-based access to their FOIA account.

The SEC FOIA Office recognizes the need to provide updated FOIA guidance to the Commission to reinforce awareness of records management and release of information issues. Specific internal training is being developed for each liaison office to provide a baseline of processing guidance and to provide continuity to frequently changing liaison staff. To accommodate the growing workload and increasing complexity, the FOIA Office has requested upgrades for certain job series of FOIA staff, hiring of staff attorneys, and filling other vacant positions. These improvements to staffing will contribute to the ability of the FOIA Office to

provide Commission-wide training, implement a public access module, and better manage and resolve the backlog.

D. List all areas chosen as improvement areas for the agency plan.

- 1) Backlog reduction/elimination
- 2) Proactive disclosure of information
- 3) Electronic FOIA – automated processing
- 4) In-House training

E. Information for improvement areas.

Name	1) Backlog reduction/elimination		
Brief Statement of Goal or Improvements sought to be made	Distinct Steps to be Taken	Time Milestones	Means of Measurement of Success
Reduce backlog and improve time frame for responding to FY 05 and 06 requests; and eliminate backlog of FY 03 and 04 requests	Continued uploading of correspondence as part of filing review process.	On-going. <i>Filing reviews are posted no sooner than 45 days from completion of staff review.</i>	* Increased number of filings publicly disseminated; * Reduction in number of future FOIA requests for review correspondence.
	Improve internal practices and regulations regarding fees; Rule 83 substantiations; appeals; and access to records.	Review issues & schedule action for improvements – 03/15/2007	* Improved response time to requestors; * Improved release decisions; * Reduction in appeals and litigation
	Improve FOIA Office staffing.	Hire staff attorneys and fill vacant slots - <i>Ongoing as budget permits</i>	* Improved response time to requestors; * Improved release decisions; * Reduction in appeals and litigation
	Improve timeliness of responses from organizational components.	Issue Policy Memo and Guidance Commission – wide 9-30-06	* Improved timeliness of responses from organizational components

Name	2) Proactive Disclosure of Information		
Brief Statement of Goal or Improvements sought to be made	Distinct Steps to be Taken	Time Milestones	Means of Measurement of Success
Provide public access to frequently requested filing review documents	Increase upload of correspondence as part of filing review process.	On-going. <i>Filing reviews are posted no sooner than 45 days from completion of staff review.</i>	* Increased number of filings publicly disseminated; * Reduction in number of FOIA requests for review correspondence.
	Increase posting notices of effectiveness.	On-going. <i>Beginning 5/22/06</i>	

Name	3) Electronic FOIA – Automated processing		
Brief Statement of Goal or Improvements sought to be made	Distinct Steps to be Taken	Time Milestones	Means of Measurement of Success
Improve use of FOIA document management system for electronic tracking & responses	Obtain and implement public web-access module.	Complete by 10/01/07	*Improved response times; * Improved access to case status for requestors

Name	4) In-House Training		
Brief Statement of Goal or Improvements sought to be made	Distinct Steps to be Taken	Time Milestones	Means of Measurement of Success
Provide internal FOIA training to all commission staff	Issue Policy Memo & Guidance. Revise in-house training materials and schedule training plan.	Complete by 9/30/06 Complete by 10/30/2006	* Improved release decisions; * Decrease in appeals and litigation. * Improve response time from Commission divisions and offices to FOIA Office

F. For the entire plan, group the improvement areas into the following time periods to be completed by.

Actions to be completed by:	
December 31, 2006	Begin posting notices of effectiveness (5/22/06) Issue FOIA Policy Memo (9/30/06) Revise in-house training materials and schedule training plan (10/30/06)
December 31, 2007	Review internal practices issues & schedule actions for improvement (3/15/07) Obtain and implement public access module (10/01/07)
After December 31, 2007	Continued uploading of correspondence as part of filing review process is on-going. Filing reviews are posted no sooner than 45 days from completion of staff review.